UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/863,232
Filing Date: May 21, 2001
Appellant(s): ARNOLD ET AL.

Anthony C. Murabito

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 6-12-09 appealing from the Office action

mailed 7-21-08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,757,696	**Multer et al.**	1-2-2001
20010046862	**Coppinger et al.**	2-8-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims **1 - 24** are rejected under 35 U.S.C. 103(a) as being unpatentable over

Multer et al. (US Patent No. 6,757,696) in view of **Coppinger et al.** (US PGPUB No.

20010046862).

Regarding Claim 1, Multer discloses a method of transferring information comprising

the steps of:

    b) modifying said account to identify an information that resides on said remote

        server but not on said second mobile computing device; (Multer col 17, ll 15-20;

        col 32, ll 14-17: accounting information updated and stored on server)

Multer discloses wherein said remote server automatically determining, from said account that said information is new to said second handheld device and in response thereto for automatically downloading said information to said second mobile computing device. (Multer col 34, ll 23-29: user information updated (i.e. new information)) Multer does not specifically disclose the capability for a remote server, and accessing an account stored on said remote server said account reserved for a second mobile computing device,.

However, Coppinger discloses:

a) at a remote server, responsive to a receiving signal from a first mobile computing device, accessing an account stored on said remote server, said account reserved for a second mobile computing device, said account describing information that is not stored in said second mobile computing device; (Coppinger para 059, ll 1-34; para 060, ll 1-7; para 060, ll 21-29: wireless (mobile computing) device accounting information on a network connected server)

c) responsive to establishing a connection with said second mobile computing device. (Coppinger para 071, ll 28-37: communication connection between server and other wireless (mobile computing) device)

It would have been obvious to one of ordinary skill in the art to modify Multer for a remote server and accessing an account stored on said remote server plus establishing a connection with said second mobile computing device as taught by Coppinger. One of ordinary skill in the art would have been motivated to employ the teachings of Coppinger in order to enable the additional and extended capability for

the transfer over the wireless communication link and execution of transferred

application programs on a handheld wireless device. (Coppinger para 003, ll 7-13: "

... *Recently developed wireless devices permit a program to be transferred via the*

wireless link (e.g., downloaded) for storage in the memory and for execution as an

application program. Such an application program may define unique displays for

acquiring data input by the user and provide for transfer of resulting data via the

wireless link (e.g., upload) to a conventional desktop computer. ... ")

Regarding Claim 2, Multer discloses a method as described in Claim 1 further

comprising the step of said remote server receiving a token identifying said information

and said second mobile computing device, and wherein said token causes said account

to be modified by said remote server. (Multer col 37, ll 62-65: data pack (i.e. token) used

for information transfer utilized for update)

Regarding Claims 3, 14, Multer discloses a method, system as described in Claims 1,

12 wherein the first and said second mobile computing or said sender and said receiver

mobile computing are portable electronic computer systems. (Multer col 4, ll 27-36: two

devices (i.e. handheld devices) in communication)

Regarding Claims 4, 15, 23, Multer discloses a method, system as described in Claims

1, 12, 21 wherein said information is a version of an application program. (Multer col 12,

ll 10-12; col 12, ll 16-20; col 13, ll 3-7: version information processed)

Regarding Claims 5, 16, 24, Multer discloses a method, system as described in Claims

4, 15, 21 wherein said account comprises an application version record table

comprising an entry for each application stored in said second mobile computing device

and wherein each entry comprises: an application identifier; a version identifier; and a

user identifier. (Multer col 38, ll 3-5 col 38, ll 8-15; col 38, ll 55-59: identifiers utilized to

designate contents within table entries)

Regarding Claim 6, Multer discloses a method as described in Claim 1 wherein the

step of automatically downloading said information to said second mobile computing

device, of step d), is performed only if said first mobile computing device has authority

to download to said second mobile computing device. (Multer col 33, ll 13-17; col 34, ll

23-29; col 5, ll 17-21: authentication for device based on account information, download

information)

Regarding Claims 7, 18, Multer discloses a method, system as described in Claims 6,

17 wherein said authority is established via an express grant of permission from said

second mobile computing device to said first mobile computing device. (Multer col 34, ll

16-19: authorization for device based on account information)

Regarding Claims 8, 19, Multer discloses a method, system as described in Claims 6,

17 wherein said authority is established via a user confirmation that is made in response

to a user message displayed on a display screen of said second mobile computing

device. (Multer col 12, ll 29-36; col 32, ll 23-28: user interface)

Regarding Claims 9, 20, Multer discloses a method, system as described in Claims 1,

12 wherein said remote server is a web based server. (Multer col 31, ll 21-23: web

based (i.e. HTTP) server)

Regarding Claim 10, Multer disclose a method as described in Claim 1 wherein said

step d) is performed within a synchronization process between said remote server and

said second mobile computing device. (Multer col 7, ll 58-64; col 14, ll 18-19:

synchronization process for information within server and handheld device)

Regarding Claim 11, Multer disclose a method as described in Claim 1 wherein the

step d) is performed within a synchronization process between a host computer system

and said second mobile computing device. (Multer col 7, ll 58-64; col 14, ll 18-19:

synchronization process for information in server and two devices (i.e. host system and

handheld device))

Regarding Claim 12, Multer discloses a system comprising:

    a) a receiver mobile computing device; (Multer col 4, ll 25-36; col 5, ll 17-21:

        receiver system (i.e. handheld device))

    c) a sender mobile computing device for causing said account to be modified to

identify an information that resides on said remote server but not on said receiver

mobile computing device; (Multer col 33, ll 13-17: update information within

server system)

d) wherein said receiver mobile computing device is for establishing a connection

with said remote server; (Multer col 5, ll 10-17; col 8, ll 16-19: handheld device

communicating through connection between server and handheld device) and

Multer discloses wherein said remote server is for automatically determining,

from said account that said information is new to said receiver mobile computing

device and automatically for downloading said information to said receiver mobile

computing device. (Multer col 17, ll 15-20; col 32, ll 14-17; col 16, l 50: server

management system for accounting information; col 34, ll 23-29: information

updated (i.e. new information)) Multer does not specifically disclose a remote server

containing an account reserved for said receiver mobile computing device which

describes a complement of information stored in the receiver mobile computing

device.

However, Coppinger discloses:

b) a remote server containing an account reserved for said receiver mobile

computing device which describes a complement of information stored in the

receiver mobile computing device; (Coppinger para 059, ll 1-34; para 060, ll 1-7;

para 060, ll 21-29: wireless (mobile computing) device accounting information on

a network connected server)

It would have been obvious to one of ordinary skill in the art to modify Multer for a

remote server containing an account which describes a complement of information

stored in the receiver mobile as taught by Coppinger.   One of ordinary skill in the art

would have been motivated to employ the teachings of Coppinger in order to enable the

additional and extended capability for the transfer over the wireless communication link

and execution of transferred application programs on a handheld wireless device.

(Coppinger para 003, ll 7-13)

Regarding Claim 13, Multer discloses a system as described in Claim 12 wherein said

sender mobile computing is for sending said remote server a token identifying both said

information and said receiver mobile computing and wherein said token causes said

remote server to modify said account. (Multer col 5, ll 17-21; col 6, ll 16-20; col 37, ll 62-

65: data pack (i.e. token) utilized to modify user information)

Regarding Claim 17, Multer discloses a system as described in Claim 12 wherein said

remote server is also for determining if said sender mobile computing device has

authority to download to said receiver mobile computing device as a precursor to

downloading said information to said receiver mobile computing device. (Multer col 4, ll

25-36; col 6, ll 16-20: authorization for device, download information to device)

Regarding Claim 21, Multer discloses a system comprising:

    a) a receiver mobile computing computer; (Multer col 4, ll 25-36; col 5, ll 17-21:

        receiver system (i.e. handheld device))

c) a sender mobile computing computer for causing said account to be modified to

identify an information that resides on said web based server but not on said

receiver mobile computing computer; (Multer col 17, ll 15-20: update accounting

information managed within management (i.e. web based)server)

d) wherein said receiver mobile computing computer is for establishing a connection

with said web based server; (Multer col 5, ll 10-17; col 6, ll 16-20: handheld

device communicating through connection between server and handheld device)

Multer discloses wherein said web based server automatically determines,

from said account, that said information is new to said receiver mobile computing

computer, also determines if said sender mobile computing computer has authority

to download to said receiver mobile computing computer, and, if so, automatically

downloads said information to said receiver handheld computer. (Multer col 34, ll 23-

29: update user information (i.e. new information)) Multer does specifically disclose

the capability for a web based server containing an account reserved for said

receiver mobile computing computer which describes a complement of information

stored in the receiver mobile computing computer.

However, Coppinger discloses:

b) a web based server containing an account reserved for said receiver mobile

computing computer which describes a complement of information stored in the

receiver mobile computing computer; (Coppinger para 059, ll 1-34; para 060, ll 1-

7; para 060, ll 21-29: wireless (mobile computing) device accounting information

on a network connected server; para 032, ll 8-13; para 035, ll 1-5: web server)

It would have been obvious to one of ordinary skill in the art to modify Multer for a web based server with an account which describes a complement of information stored in the receiver mobile computing computer as taught by Coppinger.   One of ordinary skill in the art would have been motivated to employ the teachings of Coppinger in order to enable the additional and extended capability for the transfer over the wireless communication link and execution of transferred application programs on a handheld wireless device. (Coppinger para 003, ll 7-13)

Regarding Claim 22, Multer discloses a system as described in Claim 21 wherein said sender mobile computing is for sending said remote server a token identifying both said information and said receiver mobile computing and wherein said token causes the web based server to modify said account. (Multer col 17, ll 15-20; col 37, ll 62-65: data pack (i.e. token) used to manage accounting information within management server (i.e. remote server))

(10) Response to Argument

A. Rejection of Claim I under 35 U.S.C. § 103(a) over Multer et al. (US# 6,757,696 B2, "Multer") in view of Coppinger et al. (US ~~6,757,696~~, "Coppinger").

NOTE: PGPUB No. for Coppinger is 2001/0046862 as reflected in the Office Action not 6,757,696.

A1: Applicant argues that the referenced prior art does not disclose *device based*

accounting information. (Appeal Remarks Pages 12-13)

<u>Response to A.1</u>:

Multer and Coppinger disclose the creation and the usage of device-based
accounting information. (Coppinger para 111, ll 11-15: identifying the account to be
debited, identifying the wireless device)   Multer discloses accounting information based
on an individual user.   A particular user can have multiple devices therefore there is a
distinct advantage for a more refined set of accounting information based on a device.

Multer discloses a server and multiple clients and management of accounting
information on a user basis.   (Multer col 17, ll 15-20; col 32, ll 14-17: accounting
information updated and stored on server; col 6, ll 16-22: a server coupled to both
System A and System B)   Multer and Coppinger disclose a server for the registration,
storage, and management of accounting information for a particular wireless (mobile
computing) device including information designating a user for a particular device.
Coppinger discloses accounting information on a device-basis. (Coppinger para 059, ll
1-34; para 060, ll 1-7; para 060, ll 21-29: wireless or mobile device accounting
information with a network connected server)

Accounting information is data that is manipulated by a computer system such as
in performing a synchronization procedure. This change to device-based accounting
information would not change the operation of Multer since accounting information
whether user-based or device-based is data that can still be synchronized between two
computing systems.

The accounting or profile information for each device and each user in each

situation would be cognizant of the particular operational environment. In one situation,

the accounting information for the device must recognize that multiple users are using

the device. On the other hand, the accounting information for the user must recognize

that a user has multiple devices. Accounting information must take into account how

many users and how many devices are attached to a particular account.

A.2: Applicant argues that the referenced prior art *teaches away from device based*

accounting information. (Appeal Remarks Page 12)

Response to A.2:

To teach away, a reference must criticize or discourage a particular embodiment of

an invention within a prior art. There is no disclosure in Multer that discredits, or

discourages the usage of accounting information on a device-basis. Accounting

information is information about a particular entity, whether the entity is a user or a

device. Prior art's treatment of a user is equivalent to claimed invention's treatment of

a device. Applicant's accounting information maintained for a device can be application

information including version information. The prior art discloses that the accounting

information maintained for a user (Multer col 8, ll 40-44) and for a device (Coppinger

para 059, ll 1-34; para 060, ll 1-7; para 060, ll 21-29) can be application information

including version information. The information maintained for Applicant's claimed

invention and maintained by the referenced prior art are equivalent. The Multer and

Coppinger combination discloses the limitations of the claimed invention and does not

render the combination inoperable.

Applicant is reminded that, "the prior art's mere disclosure of more than one

alternative does not constitute a teaching away from any of these alternatives because

such disclosure does not criticize, discredit, or otherwise discourage the solution

claimed...." In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

(refer MPEP 2145.X.D.1)

A.3: Applicant argues that the referenced prior art *merely teaches the creation of an*

account. (Appeal Remarks Page 14)

Response to A.3:

Coppinger discloses the creation of an account.   In addition, Coppinger discloses

a complement of information within the account. (Coppinger paragraph [0059]: creation

and complement of accounting information) and the usage of an account; para 44, ll 4-

10: accessible via the Internet (suitable passwords and accounts presumed to be in

place)) Coppinger discloses the creation and also discloses usage of the device-based

accounting information. (Coppinger para 111, ll 11-15: identifying the account to be

debited, identifying the wireless device)

A.4: Applicant argues that the referenced prior art does not disclose *information that is*

not stored in the second mobile computer device. (Appeal Remarks Page 14)

Response to A.4:

Coppinger is not used to disclose this limitation. Multer is used to reject this claim

limitation as per Claim 1 rejection in Office Action.   Multer discloses a remote server

and information (including accounting information) stored on the server. (Multer col 17,

ll 15-20; col 32, ll 14-17: accounting information updated and stored on server) Multer

discloses first and second systems and a remote server. (Multer col 6, ll 16-22)

The specification discloses the usage of synchronization to remove differences in

information between two computing devices. (Specification page 5, lines 20-23; Page

22, ll 19-25: achieve same information in to databases) The basis of synchronization is

to determine differences between information stored on two computing devices. The

completion of a synchronization procedure removes these differences between the

information stored on two computing devices. Multer discloses the usage of

synchronization to remove differences in information between two computing systems.

(Multer col 3, ll 21-27: maintaining matching records between multiple network-coupled

devices)

A.5: Applicant argues that the Coppinger referenced prior art does not disclose

synchronization between a wireless device and a server. (Appeal Remarks Page 15-

16)

Response to A.5:

Coppinger discloses transactions between wireless devices. And, Coppinger

discloses transactions between wireless devices and one or more servers. (Table 1: 3

Classes of Transactions) In addition, Coppinger discloses that a wireless device can

act as both a client and as a server. The synchronization procedures can be performed

by wireless devices with at least one wireless device acting as a server. (Coppinger

para 030, II 36-38: wireless device may act as both a "client" and "server")

Coppinger does not teach away from the concept of using a server within a synchronization process. To teach away, a reference must criticize or discourage a particular embodiment of an invention within a prior art. There is no disclosure in Coppinger that discredits, or discourages the usage of a server within a synchronization procedure.

Applicant is reminded that, "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed...." In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004). (refer MPEP 2145.X.D.1)

A.6: Application argues that the referenced prior art does not discloses *a determination of whether information is not present is done before a connection is established or before a device connects.* *(Appeal Remarks Page 18)*

Response to A.6:

Claim 1 discloses "at a remote server, responsive to a receiving signal from a first mobile computing device". This indicates that a communication signal or a connection has been established between the server and computing device before a determination of information (including accounting information) not stored in second computing device. In addition, Claim 1 discloses response to establishing a connection, a determination of information that is new. Both of these situations appear to suggest that a connection is

completed between two computing devices before a determination of information status

is completed.

B. Rejection of Claims 2-11 under 35 U.S.C. § 103(a) over Multer et al. (US#

6,757,696 B2, "Multer") in view of Coppinger et al. (US ~~6,757,696~~, "Coppinger").

B.1: Applicant argues dependent claims 2-11.

Response to B.1:

The successful responses to arguments for independent claim 1, also successfully

responds to the current arguments against the dependent claims 2-11.

C. Rejection of Claim 2 under 35 U.S.C. § 103(a) over Multer et al. (US# 6,757,696

B2, "Multer") in view of Coppinger et al. (US 6,757,696, "Coppinger").

C.1: Applicant argues that the referenced prior art does not disclose *the token and that*

the token causes said remote server to modify said account. (Appeal Remarks Page

31)

Response to C.1:

Multer discloses that the data packages are not after the fact logs of

synchronization procedures.   The datapack is a set of procedures required for updating

one computer system and placing it in synchronization with another computer system

whether handheld or mobile computing systems.   (Multer para 010, ll 48-51: steps

necessary for applying data packages to the local format required for the type of information)

Multer discloses that the datapack information is applied to update the information. This disclosure indicates that the data pack is not an after the fact data entity but an entity that causes (applying information) the accounting (information, data) to be updated.

Multer discloses that the datapack is equivalent to the token. It is not a requirement to disclose the term, "token", when the prior art named entity, the datapack, performs an equivalent function. The concept disclosed by the particular term must be disclosed by the referenced prior art. A token is defined as an entity to identify information. Multer discloses the concept of a datapack which when processed causes the information (including accounting information) to be modified. This is equivalent to Applicant's "token".

A token causes the account information to be modified, and Multer's datapack causes the particular accounting information and data on the handheld device or mobile computing device to be modified. Multer discloses a data package (datapack), which is utilized to identify information. (Multer col 10, ll 26-31; col 37, ll 62-65: data package, change information)

D. Rejection of Claim 4 under 35 U.S.C. § 103(a) over Multer et al. (US# 6,757,696 B2, "Multer") in view of Coppinger et al. (US 6,757,696, "Coppinger").

D.1: Applicant argues that referenced prior art does not disclose *a version of an application program. (Appeal Remarks Page 33)*

Response to D.1:

Multer discloses versioning utilizing a version number per object. (Multer col 12, ll 10-12), and each application is also an object. Multer discloses the processing of application programs, its version information, and the capability to match (i.e. synchronize) applications between systems (i.e. handheld devices). (Multer col 4, ll 62-67: update to software modules for application; col 12, ll 10-12; col 15, ll 10-11; col 15, ll 27-30: application information processed)

In addition, Coppinger does disclose the capability for software version control in assuring reliable operation of a device such as a wireless device within an overall system. (Coppinger para 047, ll 1-4: application program; para 056. lines 1-10: software version control for APW (application program); para 075, ll 8-19: having a particular APW (application) having a specified name and version)

E. Rejection of Claim 6 under 35 U.S.C. § 103(a) over Multer et al. (US# 6,757,696 B2, "Multer") in view of Coppinger et al. (US ~~6,757,696~~, "Coppinger").

E.1: Applicant argues that the referenced prior art does not disclose *authority to download to said second mobile computing device. (Appeal Remarks Page 25)*

Response to E.1:

Multer discloses authentication being performed and completed before an update

of information (including accounting information). (Multer col 3, ll 46-50: authentication

module associating user data with particular user; col 33, ll 13-17; col 34, ll 23-29; col 5,

ll 17-21: authentication for device based on account information, download information;

col 13, ll 38-43: each device login to server to authenticate the device)

F. Rejection of independent Claim 12 under 35 U.S.C. § 103(a) over Multer et al.

(US# 6,757,696 B2, "Multer") in view of Coppinger et al. (US 6,757,696,

"Coppinger").

F.1: Applicant argues that the referenced prior art teach away from an account for a

device. (Appeal Remarks Page 26-29)

Response to F.1:

    Refer to Response to A.2.

G. Rejection of Claims 13-20 under 35 U.S.C. § 103(a) over Multer et al. (US#

6,757,696 B2, "Multer") in view of Coppinger et al. (US 6,757,696, "Coppinger").

G.1: Applicant argues the dependent claims 13-20.

Response to G.1:

    The successful responses to arguments for independent claims 12, also

successfully respond to the current arguments against the dependent claims 13-20.

H. Rejection of Claim 13 under 35 U.S.C. § 103(a) over Multer et al. (US# 6,757,696

B2, "Multer") in view of Coppinger et al. (US 6,757,696, "Coppinger").

H.1: Applicant argues that the referenced prior art does not disclose *the token and that*

the token causes said remote server to modify said account. (Appeal Remarks Page

31)

Response to H.1:

    Refer to Response to C.1.

I. Rejection of Claim 15 under 35 U.S.C. § 103(a) over Multer et al. (US# 6,757,696 B2,

"Multer") in view of Coppinger et al. (US 6,757,696, "Coppinger").

I.1: Applicant argues that referenced prior art does not disclose a version of an

application program. (Appeal Remarks Page 33)

Response to I.1:

    Refer to Response to D.1.

J. Rejection of Claims 21-24 under 35 U.S.C. § 103(a) over Multer et al. (US# 6,757,696

B2, "Multer") in view of Coppinger et al. (US 6,757,696, "Coppinger").

J.1: Applicant argues that the referenced prior art does not disclose the limitations of

Claim 21.

Response to J.1:

  Responses to remarks for Claim 1 can be successfully applied to remarks for Claim

21. The successful responses to arguments for independent claims 21, also

successfully respond to the current arguments against the dependent claims 22-24.

Conclusion

Multer disclose a remote server and multiple client devices. Multer discloses a

server utilized for information (including accounting information). Multer discloses the

usage of a synchronization process to remove differences in information between two

computing systems (information in first system but not in second system). And, Multer

discloses an authentication process to determine access capability for a user. In

addition, Multer discloses processing applications and attaching version information to

objects such as an application.

Coppinger discloses accounting information on a device-basis. And, Coppinger

discloses a software version processing for application.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Kyung Hye Shin/
Examiner
Art Unit 2443

Sep. 23, 2009

Conferees:

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